

Governor and Justice Gerrard was serving on the Nebraska Supreme Court. As a matter of fact, the court has concurred in establishing an execution date to take place this March 6 in the State of Nebraska.

Issuing and executing a death sentence is one of the most solemn responsibilities the judicial and executive branches are entrusted with. In every instance, Justice Gerrard has ruled on the death penalty, he has been balanced, even-handed and, most important, faithful to the Constitution. In fact, Judge Gerrard has confirmed for the record that the U.S. Supreme Court and the Nebraska Supreme Court have repeatedly held that the death penalty is an acceptable punishment as long as the laws for imposing it are followed and the constitutional limitations imposed by the U.S. Supreme Court are respected.

Finally, Judge Gerrard has stated, and the record shows, he has voted to confirm a number of sentences and convictions of those sentenced to death, and he has authored more than one State court opinion upholding the constitutionality of Nebraska's death penalty law. In my view, Judge Gerrard's answers and his clear record more than adequately address any concerns about his ability or willingness to both apply the law with impartiality and to carry out the law effectively.

To sum up, John Gerrard deserves to be confirmed by the Senate because he has an outstanding legal record, he possesses the proper temperament needed on the Federal bench, and he will follow legal precedent to carry out the law rather than interpret as he sees it. He has been and will be an impartial judge, not an activist. So I urge his confirmation by my colleagues.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHANNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHANNIS. Mr. President, I am very pleased today to rise in support of a man who has proven himself worthy to serve as a Federal judge on the U.S. district court.

Justice John Gerrard has experience, integrity, and respect for the Constitution—all of which are necessary for someone serving on our Federal bench.

He has earned the respect and the admiration of the people of Nebraska. He consistently receives top ratings from the Nebraska State Bar Association, and the people of Nebraska have expressed their confidence in him not once, not twice, but three times, voting to retain him on the bench.

Justice Gerrard has authored hundreds of opinions throughout his 16 years as a member of the Nebraska Su-

preme Court. These decisions reveal with clarity his philosophy regarding the powers and limitations of a judge. They reflect his commitment to adhere to the Constitution and the laws of our great Nation.

When asked about judicial restraint after his nomination to the U.S. district court, Justice Gerrard responded:

I firmly believe that a judge should rely on the admissible evidence and applicable law (and nothing else) when rendering a decision.

He further responded:

I do not believe a judge should consider his or her own values or policy preferences in determining what the law means—and I have never done so at any time in my judicial career.

This unequivocal statement says a lot. Justice Gerrard knows that his more than 450 opinions are a matter of public record and that they are open to everyone's scrutiny. He has welcomed that. He has welcomed it with humility.

You will not hear him boast about being the youngest person ever appointed to my home State's high court, nor will you hear him boast about his successful years as a private attorney and city attorney—and they were successful. He is absolutely unassuming. He is reflective and he is articulate. He speaks with great reverence about the oath he took to uphold the Constitution.

I did not know Justice Gerrard prior to his appointment to the Nebraska Supreme Court, but he quickly developed a reputation as a disciplined judge who renders very well researched opinions.

I believe Justice John Gerrard is a worthy member to join the U.S. district court, and so I stand here today urging my colleagues to vote in favor of his confirmation.

I would also like to take a moment to talk about the process that brought us here this afternoon. In this regard, I would like to offer my appreciation and thanks to my colleague from Nebraska, the senior Senator, BEN NELSON. Senator NELSON called me before this nomination was made and asked for my input. I took that opportunity to sit down with Judge Gerrard and to talk to him. After our meeting and knowing what I knew about the justice, it was my decision to support his nomination to the U.S. district court. In fact, I would say, if I had total control of this nomination, I would do it all over again.

This is a fine man. This is a man who I hope will have strong bipartisan support this afternoon when we vote on making him a U.S. district judge. He is a good man, and he deserves a strong bipartisan vote. He is going to adhere to the laws of our Nation with integrity, humility, and a strict adherence to the law.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN M. GERRARD TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of John M. Gerrard, of Nebraska, to be United States District Judge for the District of Nebraska.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 90 minutes for debate, with 60 minutes divided in the usual form and 30 minutes under the control of the Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask that I be notified after 12 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, by all accounts, Judge Gerrard of the Nebraska Supreme Court is a good man with a good family and many friends, and he has done a pretty good job over the years—maybe a good job over the years—as a capable practicing jurist now on the Supreme Court of Nebraska.

I will vote against that nomination, reluctantly. I really do not want to in one sense, but his nomination raises an important issue about the duty of a judge to be faithful to the law and to commit to serve under the law and under the Constitution, as the oath of a Federal judge requires. In other words, as a judge you are a servant to the law.

You honor the law. You venerate the law. You follow the law whether or not you like it, whether or not you think it is a good idea, whether or not had you been at the Constitutional Convention in the 1700s, you would have voted for that phrase or not voted for that phrase or whether if you had been in the House or the Senate you would have worked to change the Constitution or change the law of the State of Nebraska. Those are matters that are outside the province of a judge. If judges choose to be involved in policy-setting, then they ought to invest themselves in the policy-setting branches, the legislative and executive branches.